

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

RALPH DOMINIC VACCARO,

Plaintiff,

v.

SELECT PORTFOLIO SERVICING INC.,

Defendant.

Case No. 18-cv-05111-HSG

**ORDER TO SHOW CAUSE WHY  
CASE SHOULD NOT BE DISMISSED**

Re: Dkt. No. 10

On August 21, 2018, Plaintiff filed the present suit against Defendant Select Portfolio Servicing, Inc. (“Select Portfolio”). *See generally* Dkt. No. 1 (“Compl.”). Defendant filed a motion to dismiss on September 11, 2018, pursuant to Federal Rule of Civil Procedure 12(b)(1). Dkt. No. 10. To date, Plaintiff has failed to oppose the motion.

In general, an opposition must be filed and served “not more than 14 days after the motion was filed.” L.R. 7-3(a). The Court interprets a failure to oppose a motion to dismiss as a concession that the original complaint should be dismissed. *See Marziano v. Cty of Marin*, No. C-10-2740 EMC, 2010 WL 38955258, at \*4 (N.D. Cal. Oct. 4, 2010) (interpreting plaintiff’s failure to oppose defendant’s motion to dismiss as a concession that the claim at issue should be dismissed); *see also GN Resound A/S v. Callpod, Inc.*, No. C 11-04673 SBA, 2013 WL 1190651, at \*5 (N.D. Cal. Mar. 21, 2013) (construing plaintiff’s failure to oppose defendant’s argument as a concession of said argument).

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Because Plaintiff failed to oppose Select Portfolio’s motion within the mandated period of 14 days, the Court may, in its discretion, dismiss this action. *See Marziano*, 2010 WL 38955258, at \*4. The Court thus **ORDERS** Plaintiff to show cause by December 17, 2018 as to why this case should not be dismissed in light of Plaintiff’s failure to oppose Defendant’s motion.

**IT IS SO ORDERED.**

Dated: 12/11/2018

  
HAYWOOD S. GILLIAM, JR.  
United States District Judge